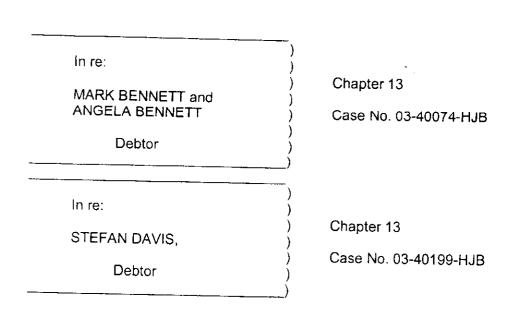
06/30/2004	90	Court Certificate of Mailing of <u>86</u> Order dated 6/29/04 Re: <u>85</u> Notice of Appeal and <u>89</u> Order to Show Cause Dated 6/30/04 Regarding <u>79</u> Order Dated June 10, 2004 Regarding <u>57</u> First Fee Application For Compensation filed by Attorney Francis Lafayette. (sas, usbc) (Entered: 06/30/2004)	
06/30/2004	<u>91</u>	Status Report with c/s (Re: 79 Order on Application for Compensation). Filed by Debtor Hector L. Rolon (Lafayette, Francis (Entered: 06/30/2004)	
07/01/2004	92	Motion to Reconsider (Re: <u>86</u> Order) Filed by Debtor Hector L. Rolon (Lafayette, Francis) (Entered: 07/01/2004)	
07/01/2004	93	Brief/Memorandum In Support Of (Re: 92 Motion to Reconsider). Filed by Debtor Hector L. Rolon (Lafayette, Francis) (Entered: 07/01/2004)	
07/07/2004	94	Order dated 7/7/04 RE: 89 Order to Show Cause Dated 6/30/04. Hearing scheduled for 7/14/04 is canceled. (ps, usbc) (Entered: 07/07/2004)	
07/08/2004	95	Memorandum of Decision Dated 7/8/04 Regarding 92 Motion to Reconsider 86 Order Filed by Attorney Francis Lafayette. A SEPARATE ORDER SHALL ISSUE. (sas, usbc) (Entered: 07/08/2004)	
07/08/2004	96	Order Dated 7/8/04 Denying 92 Motion to Reconsider 86 Order Filed by Attorney Francis Lafayette. (sas, usbc) (Entered: 07/08/2004)	
07/08/2004	97	Court Certificate of Mailing of <u>95</u> Memorandum of Decision and <u>96</u> Order Regarding <u>92</u> Motion to Reconsider <u>86</u> Order Filed by Attorney Francis Lafayette. (sas, usbc) (Entered: 07/08/2004)	
07/09/2004	98	BNC Certificate of Mailing - PDF Document. Service Date 07/09/2004. (Related Doc # 94) (Admin.) (Entered: 07/10/2004)	
07/17/2004	99	Notice of Appeal. Fee Amount \$250 Filed by Debtor Hector L. Rolor (RE: 95 Memorandum of Decision, 96 Order on Motion To Reconsider). Appellant Designation due by 7/27/2004. Complied Records Due by 8/11/2004. Transmission of Designation Due by 8/16/2004. (Lafayette, Francis) (Entered: 07/17/2004)	
07/18/2004	100	Receipt of filing fee for Notice of Appeal(02-45994) [appeal,ntcapl] (250.00). Receipt Number 0101B786680, amount \$ 250.00. (U.S. Treasury) (Entered: 07/18/2004)	
07/18/2004	101	Election of Appeal to District Court Filed by Debtor Hector L. Rolon	

1		(RE: 99 Notice of Appeal, ). (Lafayette, Francis) (Entered: 07/18/2004)	
07/19/2004 102		Notice of Appeal to District Court Re: 99 Notice of Appeal Filed by Francis Lafayette Counsel to Debtor Hector L. Rolon (Re: 95 Memorandum of Decision, 96 Order on Motion To Reconsider). (ab, usbc) (Entered: 07/19/2004)	
07/19/2004	<u>103</u>	Court Certificate of Mailing Re: <u>102</u> Notice of Appeal to District Court. (ab, usbc) (Entered: 07/19/2004)	
07/24/2004	104	Certificate of Compliance with c/s (Re: 79 Order on Application for Compensation). Filed by Debtor Hector L. Rolon (Lafayette, Francis) (Entered: 07/24/2004)	
07/27/2004	105	Appellant Designation of Contents For Inclusion in Record On Appeal Filed by Debtor Hector L. Rolon (RE: 99 Notice of Appeal, ). Appellee designation due by 8/6/2004. (Lafayette, Francis) (Entered: 07/27/2004)	
08/11/2004		Appellant's Designated Documents to Be Included in the Record on Appeal RE: 99 Notice of Appeal. (ps, usbc) (Entered: 08/11/2004)	
08/17/2004	<u>106</u>	Transmittal of Record on Appeal to U.S. District Court RE: 99 Notice of Appeal filed by Attorney Francis Lafayette. (ps, usbc) (Entered: 08/17/2004)	
08/19/2004	1.07	Notice of Docketing Record on Appeal. Civil Action Number: 04-30155-MAP Filed by Mary Finn (District of MA) RE: <u>99</u> Notice of Appeal.(ps, usbc) (Entered: 08/20/2004)	
09/15/2004	108	Motion to Refer Debtor's Attorney to District Court for Disciplinary Proceedings Pursuant to Local Rule 2090-2 and Rule 83.6(4) and (5) of the Local Rules of the United States District Court for the District of Massachusetts Filed by Interested Party United States Trustee (Meunier, Stephen) (Entered: 09/15/2004)	

PACER Service Center  Transaction Receipt  09/23/2004 12:54:49								
						rk0068	Client Code:	lmb
						Docket Report	Case Number:	02-45994
	7 Transaction 09/23/2004 rk0068	Transaction Receipt           09/23/2004 12:54:49           rk0068         Client Code:						

# United States Pankruptcy Court Bistrict of Massachusetts

In re: ) JOSEPH L. LaFRANCE, ) Debtor )	Chapter 13 Case No. 02-42450-HJB
In re: ) MARTA L. OYOLA, ) Debtor )	Chapter 13 Case No. 02-45398-HJB
In re: ) HECTOR L. ROLON, ) Debtor )	Chapter 13 Case No. 02-45994-HJB
In re: ) KATI ILEEN M. DAIGNEAULT, ) Debtor )	Chapter 13 Case No. 02-46689-HJB
In re: ) PETER AND DENISE CACI, ) Debtor )	Chapter 7 Case No. 02-47249-HJB



### MEMORANDUM OF DECISION

Before the Court is a "Motion for Reconsideration and to Allow Late Filing of Appeal on Grounds of Excusable Neglect (Fed. R. Bankr. P. 8002(c))" (the "Motion") filed by Attorney Francis Lafayette ("Attorney Lafayette"). The Motion does present an ironic picture, in that it seeks leave to file late an appeal of this Court's order of June 10, 2004 which, in turn, took action to ameliorate a variety of similar acts of neglect by Attorney Lafayette. See In re LaFrance, et. al., 2004 WL 1376363 (Bankr. D. Mass.).

As in the underlying case(s), Attorney Lafayette cites his allegedly poor physical condition and the side effects of medication as cause for his having failed to meet this important deadline. In the underlying cases, he claimed to have suffered from dental and back problems. Here, he claims to suffer from diabetes and polyneuropathy.

As in the <u>LaFrance</u> decision, this Court finds the existence of the alleged illnesses insufficient to justify Attorney Lafayette's failure to timely act. It is unlikely that either or any of these alleged conditions interfered in any material way with his ability to file a timely notice of appeal. This Court has checked with the records of the Clerk's Office and is advised (and takes judicial notice) that during the period of June 10, 2004 to June 21, 2004 in which the filing would have been timely, Attorney Lafayette:

- appeared before this Court on June 16, 2004 in five (5) separate hearings; and
- 2. electronically filed eighty three (83) pleadings, five (5) of which were new bankruptcy cases, spread throughout the relevant period.<sup>1</sup>

A copy of that listing is attached hereto.

In light of the foregoing, this Court finds that Attorney Lafayette's failure to timely file his notice of appeal was within his control and resulted from his own inexcusable negligence. The Motion will, accordingly, be denied. A separate Order shall issue.

DATED:

July 8, 2004

Henry Boroff

United States Bankruptcy Judge

cc: Francis Lafayette, Esq.

Denise Pappalardo, Chapter 13 trustee

United States trustee

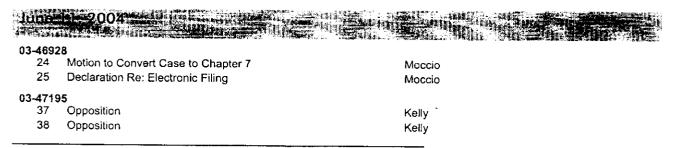
Debtors

<sup>&</sup>lt;sup>1</sup>Eighteen were filed on weekend days.

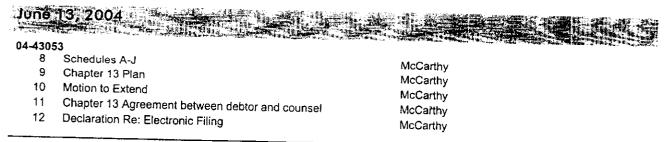
## Report of Filings by Attorney Frances Lafayette June 10, 2004 through June 21, 2004

June   -	10,2004		
03-442	98	- 1 - 100	
53	Motion to Reconsider	Bennett	
54	Declaration Re: Electronic Filing	Bennett	
03-455	56		
35	Motion to Reconsider	Gorski	
36	Declaration Re: Electronic Filing	Gorski	
04-426	68		
11	Schedules A-J	Adasiewicz	
12	Chapter 13 Agreement between debtor and counsel	Adasiewicz	
13	Chapter 13 Plan	Adasiewicz	
14	Motion to Extend	Adasiewicz	
15	Declaration Re: Electronic Filing	Adasiewicz	
04-4330	04		
1	Voluntary Petition (Chapter 13)(Attorney)	Pascale	
3	Statement of Social Security Number(s)	Pascale	
4	Declaration Re: Electronic Filing	Pascale	
04-4333	38		
1	Voluntary Petition (Chapter 13)(Attorney)	Cabrera	
2	Statement of Social Security Number(s)	Cabrera	
3	Declaration Re: Electronic Filing	Cabrera	

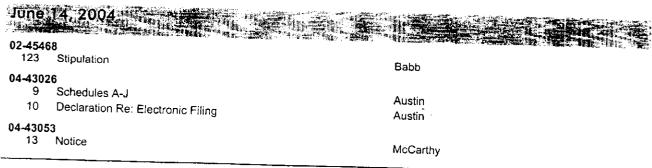
Total Filings on: June 10, 2004 15



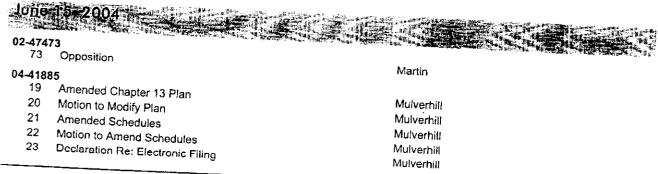
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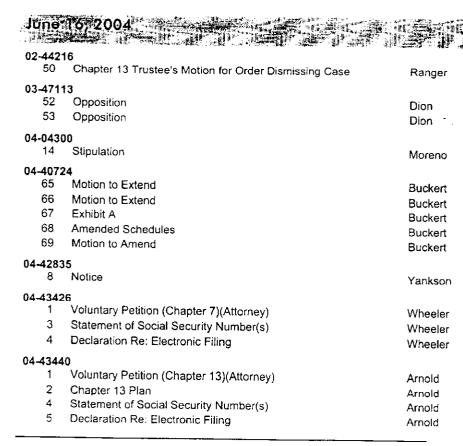
Total Filings on: June 13, 2004



Total Filings on: June 14, 2004 4

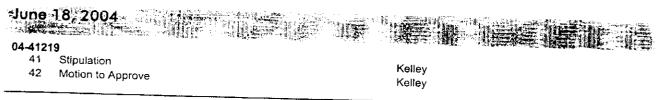


Total Filings on: June 15, 2004 6



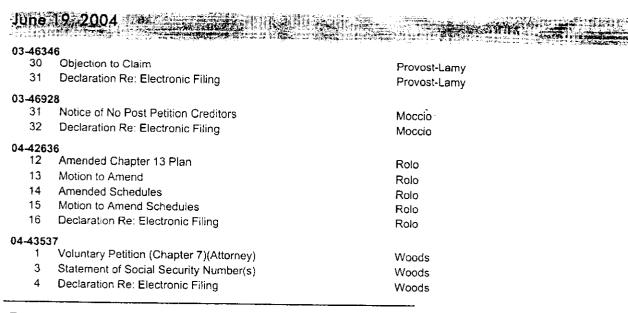
Total Filings on: June 16, 2004 17

Junë	2004	
03-465	52	ができた。 1970年 - 1970年
73	Amended Chapter 13 Plan	Bouffard
74	Motion to Amend	Bouffard Bouffard Bouffard Bouffard Bouffard
75	Amended Schedules	
76	Motion to Amend	
77	Certificate of Service	
78	Declaration Re: Electronic Filing	
04-408	33	
21	Opposition	Fenner

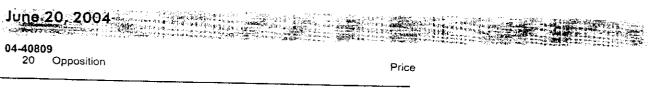


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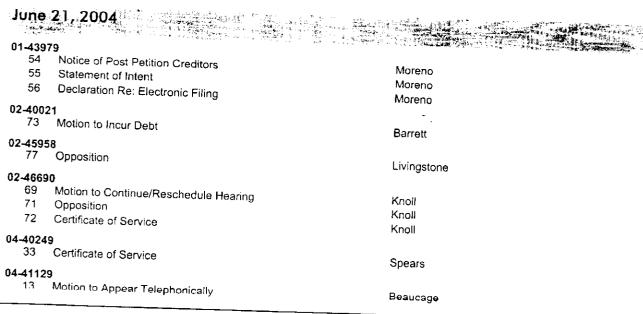
Total Filings on: June 18, 2004



Total Filings on: June 19, 2004 12



Total Filings on: June 20, 2004



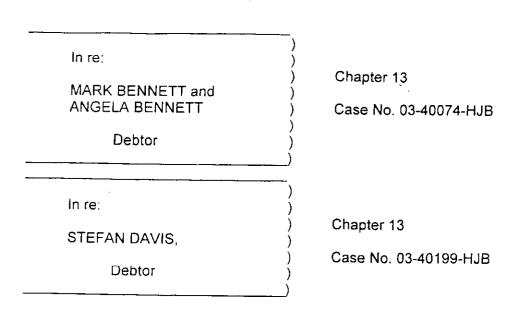
Total Filings on: June 21, 2004 10

83

Total Filings for this report:

# United States Bankruptcy Court District of Massachusetts

In re: Chapter 13 JOSEPH L. LaFRANCE, Case No. 02-42450-HJB Debtor in re: Chapter 13 MARTA L. OYOLA, Case No. 02-45398-HJB Debtor In re: Chapter 13 HECTOR L. ROLON, Case No. 02-45994-HJB Debtor In re: Chapter 13 KATHLEEN M. DAIGNEAULT, Case No. 02-46689-HJB Debtor In re: Chapter 7 PETER AND DENISE CACI, Case No. 02-47249 Debtor



### MEMORANDUM OF DECISION

Before this Court are fee applications filed by Attorney Francis Lafayette ("Attorney Lafayette") in each of the above-captioned cases. Also before this Court is its Case Management Order, dated June 24, 2003 (the "Case Management Order"), ordering Attorney Lafayette to show cause why he should not file additional fee applications in all pending cases in which he serves as counsel to the debtor and has fees unpaid and why the provisions of Massachusetts Local Bankruptcy Rule ("MBLR")13-7(b) should not be suspended in all cases which Attorney Lafayette may hereafter file in this district.

Pursuant to its order of this date, and as explained below, this Court now disallows compensation for Attorney Lafayette in each of the instant cases, in whole or in part; orders disgorgement of fees previously received by Attorney Lafayette, as may be applicable; orders Attorney Lafayette to file fee applications in all pending cases in which he serves as counsel to the debtor and has fees still unpaid; and suspends the provisions of MBLR

13-7(b) in all cases which Attorney Lafayette may hereafter file in this District until further court order. This Court's actions are authorized by 28 U.S.C. §157(b)(2)(A) and (B), 11 U.S.C. §§ 327, 328 and 329 and MLRB 13-7(b).

#### 1. FACT PATTERNS

The relevant facts are either: (1) not materially disputed, being drawn from the docket or pleadings of each relevant case, or from testimony or supplemental pleadings provided by Attorney Lafayette as described below; or (2) constitute this Court's findings of fact, pursuant to Fed. R. Bankr. P. 7052, as made applicable by Fed. R. Bankr. P. 9014, based on the evidentiary hearings described below.

#### Α. Joseph L. LaFrance

Joseph L. LaFrance filed a Chapter 13 case on April 19, 2002 and was represented by Attorney Lafayette. Shortly thereafter, Attorney Lafayette filed a "Disclosure of Compensation of Attorney for Debtor," as required by Federal Rule of Bankruptcy Procedure 2016(b) (the "LaFrance Fee Disclosure"). According to Paragraph 1 of the LaFrance Fee Disclosure, Attorney Lafayette agreed to charge \$2,500 for preconfirmation and \$500 for postconfirmation work, of which Attorney Lafayette had received \$415 on account. The balance due was set forth as follows:

\$3,000 less \$415 paid leaving a balance of \$2,085 (pre-confirmation and \$500.00 post-confirmation) for services described in (4)(a)-(c) below plus copies of @ \$.15 per page; incoming telecopier transmissions of \$.15/page; auto mileage at the rate set forth from time to time by 41 CFR sec. 301-4.2 (\$ .31 per mile); costs incurred for parking and out-of-pocket disbursements made by Attorney, including, but not limited to, filing and witness fees, service of process fees, expenses of depositions, investigative expenses,